

Attorney Docket: 030114
U.S. Application No. 10/643,177 Examiner Sterling Art Unit 3632
Response to September 25, 2007 Office Action

REMARKS

In response to the Office Action dated September 25, 2007, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks.

Claims 7, 9, and 14 are pending in this application. Claims 1-6, 10-13, and 15 were withdrawn from consideration. Claims 8 and 16-18 have been canceled without prejudice or disclaimer.

Double Patenting Rejection

The Office rejected claims 7-9 and 14 for non-statutory double-patenting over U.S. Patent 7,077,612. Claim 8, however, has been canceled and independent claim 7 has been amended to include features not disclosed by U.S. Patent 7,077,612. The Office is thus respectfully requested to remove the double patenting rejection.

Rejection of Claims 7-9 Under § 102 (e)

The Office rejects claims 7-9 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,484,888 to Miller. A claim, however, is anticipated only if each and every element is found in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). See also DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

First, claim 8 has been canceled, so the rejection of this claim is moot.

Second, claims 7 and 9 cannot be anticipated by *Miller*. These claims recite, or incorporate, many features that are not disclosed or suggested by *Miller*. Independent claim 7,

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for example, recites "*a virgate shank having a first end and a second end, the first end adaptable to be driven into a member for securing the shank therein, the virgate shank having a threaded interior passage extending from the first end to the second end, the interior passage having a threaded inner wall defining a longitudinal axis extending from the first end to the second end*" (emphasis added). Support for such features may be found at least in the as-filed application at paragraph [0025] and at FIG. 11. *Miller* discloses an apparatus for storing a bicycle. See U.S. Patent 6,484,888 to *Miller* at column 3, lines 35-50. Still, though, *Miller* fails to teach or suggest a "*virgate shank having a threaded interior passage extending from the first end to the second end, the interior passage having a threaded inner wall defining a longitudinal axis extending from the first end to the second end*" (emphasis added). The patent to *Miller*, then, cannot anticipate independent claim 7, and dependent claim 9 incorporates these same distinguishing features.

Moreover, independent claim 7 recites additional, distinguishing features. Independent claim 7, for example, recites:

the interior passage open at the first end and open at the second end such that a threaded fastener may be threaded into, through, and along the interior passage, the virgate shank also including a pair of fingers extending from the first end of the shank, such that as the threaded fastener emerges from an open end in the interior passage, a distal end of the threaded fastener contacts the fingers and deflects the fingers into contact with the member, thus frictionally engaging the fingers to the member to help retain the support device, with each finger including at least one barb protruding from an outer surface of each finger, such that each barb embeds into the member to further retain the support device.

Support for such features may be found at least in the as-filed application at paragraph [0025] and at FIG. 11. As *Miller* is also silent to all these features, the Office is respectfully requested to remove the § 102 rejection of claims 7 and 9.

Rejection of Claims 7 & 16-18 Under § 102 (b)

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The Office rejected claims 7 and 16-18 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent 3,092,412 to Drake.

First, claims 16-18 have been canceled, so the rejection of these claims is moot.

Second, independent claim 7 is not anticipated by *Drake*. Independent claim 7 recites many features that are not disclosed or suggested by *Drake*. Independent claim 7, for example, recites “*a generally hooked-shaped support member outwardly extending from an outer wall of the second end of the shank*” and “*a second support member outwardly extending from the outer wall of the second end of the shank ... with the shank, the hooked-shaped support member, and the second support member having a coplanar relationship*” (emphasis added). Support for such features may be found at least in the as-filed application at FIG. 11. *Drake* discloses a utility hook having a tubular body. U.S. Patent 3,092,412 to *Drake* at column 1, lines 70-71. *Drake's* hooks, however, are arranged inside the tubular body and held “in abutting engagement with [a] boss portion 12 of collar 13 by the upward force exerted by” a screw. *Id.* at column 2, lines 30-35. See also *id.* at FIG. 2. The patent to *Drake*, then, cannot anticipate independent claim 7, so the Office is thus respectfully requested to remove the § 102 rejection of claim 7.

Rejection of Claims 7 & 14 Under § 102 (b)

The Office rejected claims 7 and 14 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent 3,515,363 to Fisher.

Claims 7 and 14, though, are not anticipated by *Fisher*. Again, independent claim 7 recites many features that are not disclosed or suggested by *Fisher*. The patent to *Fisher*, for example, also fails to teach or suggest “*a virgate shank having a first end and a second end, the first end adaptable to be driven into a member for securing the shank therein, the virgate shank having a threaded interior passage extending from the first end to the second end, the interior passage having a threaded inner wall defining a longitudinal axis extending from the first end to the second end*” (emphasis added). The patent to *Fisher* discloses a spring clip for electrical

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wires. See U.S. Patent 3,515,363 to Fisher at column 1, lines 10-15. *Fisher's* spring clip has a shank fastener for insertion in a work piece. See *id.* at column 2, lines 30-35 and at FIG. 2. Still, though, *Fisher's* shank does not have a "coplanar relationship" with the hooked-shaped support member and the second support member, as independent claim 7 recites. Moreover, *Fisher's* shank is not "virgate" with "a threaded interior passage," again as independent claim 7 recites. As *Fisher* fails to teach or suggest at least these features, the Office is thus respectfully requested to remove the § 102 rejection of claims 7 and 14.

If the Office has any questions, the Office is invited to contact the undersigned at (919) 469-2629 or scott@scottzimmerman.com.

Respectfully submitted,



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